IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929

MACA.No. 1639 of 2005(B)

OP(MV).250/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD
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APPELLANT/PETITIONER:

A.R. VENKITESWARAN, AGED 59 YEARS,
S/O. LATE RAMASUBRAMANIA IYER, RESIDING
AT `SRIKRISHNA', KALVAKULAM ROAD,
KOPPAM, PALAKKD.

BY ADV. SRI.A.R.GANGADAS

RESPONDENTS:
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1. P. MOIDUNNI, S/O. MUHAMMED,
PALLATHU HOUSE, ELAVAMPADAM,
VANDAZHI, PALAKKAD.

2. SHIBU ALIAS SIVADASAN,
S/O. DAMODARAN, 23/98, KADAMKODE HOUSE,
ELAVAMPADAM, VANDAZHI, PALAKKAD.

3. UNITED INDIA INSURANCE CO.LTD.,
4/489 MAIN ROAD, NENMARA.

BY ADV. SRI.S.MAMMU, SC FOR UNITED INDIA INS. CO
SRI.S.M.PREM - R1 & R2
SMT.K.P.SANTHI

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 05/11/2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.A.C.A.No.1639 of 2005

Dated this the 5th November, 2007.

J U D G M E N T

Petitioner in O.P.(M.V.) No.250/1999, on the file of the Motor Accidents Claims Tribunal, Palakkad, is the appellant. The appellant is challenging the quantum of compensation awarded to him. Appellant sustained injuries in a motor vehicle accident. It was a case of collision between a jeep and car. Appellant claimed compensation impleading the owner, driver and insurer of the jeep alone. It was alleged that the accident occurred due to negligence of the driver of the jeep. Owner and driver of the jeep contended that there was no negligence on the part of the driver of the jeep. Insurer admitted the existence of a valid policy, but disputed the quantum of compensation, and also the negligence alleged against the driver. The Tribunal after trial found that the accident occurred due to the negligence of the driver of the jeep. It also found that the appellant is entitled to get

compensation and the Insurer is liable to pay that amount. Challenging the quantum of compensation awarded, the claimant himself has filed this appeal.

2. The only point arising for consideration in this appeal is whether the appellant is entitled to get any additional compensation. The evidence adduced shows that the appellant sustained injuries to his lower limb. There was contusion on the right side of the face. According to the appellant, he sustained a fracture. He produced certain medical bills. But those bills were not accepted. The Tribunal awarded only an amount of Rs.2500/= for pain and sufferings. According to me, the Tribunal ought to have awarded an amount of Rs.7500/= for pain and sufferings. So, the appellant is entitled to get additional amount of Rs.5000/= on that count. I do not find any reason to interfere with the finding of the Tribunal regarding the quantum of compensation awarded under other heads.

In the result, the appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.5000/= as additional compensation from the third respondent, Insurance Company, with 6% interest from the date of petition, till the date of

realisation. The third respondent is directed to deposit the above amount in favour of the appellant. On deposit, the appellant can withdraw the amount.

K.PADMANABHAN NAIR,
JUDGE

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